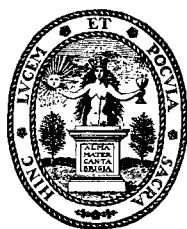


THE LAW OF TREASON
AND TREASON TRIALS
IN LATER
MEDIEVAL FRANCE

S. H. CUTTLER

*Research Fellow, Department of German
McGill University*



CAMBRIDGE UNIVERSITY PRESS
CAMBRIDGE
LONDON NEW YORK NEW ROCHELLE
MELBOURNE SYDNEY

PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE
The Pitt Building, Trumpington Street, Cambridge, United Kingdom

CAMBRIDGE UNIVERSITY PRESS

The Edinburgh Building, Cambridge CB2 2RU, UK
40 West 20th Street, New York NY 10011-4211, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
Ruiz de Alarcón 13, 28014 Madrid, Spain
Dock House, The Waterfront, Cape Town 8001, South Africa

<http://www.cambridge.org>

© Cambridge University Press 1981

This book is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without
the written permission of Cambridge University Press.

First published 1981
First paperback edition 2002

A catalogue record for this book is available from the British Library

Library of Congress catalogue card number: 81-3880

ISBN 0 521 23968 0 hardback
ISBN 0 521 52643 4 paperback

CONTENTS

<i>Preface</i>	page vii
<i>Abbreviations</i>	ix
<i>Introduction</i>	I
I THE CONCEPT OF TREASON IN LATER MEDIEVAL FRANCE: LEGISTS, 'COUTUMIERS' AND TREATISE-WRITERS	4
2 THE CRIMES OF TREASON	28
3 JURISDICTION	55
4 PROCEDURE AND THE TRIAL OF PEERS	85
5 PUNISHMENT, FORFEITURE AND PARDON	116
6 TREASON AND THE CROWN 1328-1356	142
7 TREASON AND THE CROWN 1356-1380	163
8 TREASON AND THE CROWN 1380-1422	181
9 TREASON AND THE CROWN 1422-1461	195
10 TREASON AND THE CROWN 1461-1494	213
<i>Conclusion</i>	238
<i>Bibliography</i>	245
<i>Index</i>	263

INTRODUCTION

Unlike murder, rape, assault, theft or arson, treason is not easy to define, for it is conceived in abstract political terms. 'Treason', wrote Maitland, 'is a crime which has a vague circumference and more than one centre.'¹ In later medieval France, although specific decrees identified specific offences as treasonable, there was never any precise delimitation of the crime, and what definition there was could be extended by construction. Treason was not just betrayal; it was an injury against public authority as represented by the person of the king and as symbolized by the crown. A felony yet more than a felony, treason was the political crime *par excellence*.

It is clear from even the most superficial reading that treason played a significant rôle in the history of later medieval France. The cases of Bernard Saisset, bishop of Pamiers, in 1301; Godefroi d'Harcourt in the 1340s; Jean de Montfort, duke of Brittany, in 1378; Jean de Montagu in 1409; Jean, duke of Alençon, in 1458; Louis de Luxembourg, count of Saint-Pol, in 1475; and Jacques d'Armagnac, duke of Nemours, in 1476-7 come readily to mind as examples. But it is not so much the treasons as the prosecution of them that will be of concern to us.

Some work, such as R. Guillot's exemplary monograph on the trial of Jacques Coeur in 1451-3, has been done on specific cases.² At least one study, Mme Sylvie Troubert's *doctorat de troisième cycle* on the trial of Jacques d'Armagnac, is in progress. Much else, however, remains to be done in other individual cases. More regrettably, there has not been any attempt, large or small, at synthesis, nothing comparable to J. G. Bellamy's comprehensive study on England, to

¹ Quoted in J. G. Bellamy, *The Law of Treason in England in the Later Middle Ages* (Cambridge, 1970), p. 1.

² R. Guillot, *Le procès de Jacques Coeur* (Paris, 1975); and see the items in the bibliography under the names Beaucourt, Delayant, Déprez, Fédou, Lanhers, Mandrot, Merlet, Miro, Rigault and Samaran.

The law of treason in later medieval France

which he has recently added a monograph on the Tudor law of treason, and nothing like J. R. Lander's article on attainder and forfeiture.³ My aim here is to present just such a synthesis, a balanced account not only of the theoretical framework and legal complexities of the law of treason in later medieval France, but also of the extent and political context of the enforcement of that law. An essay of this kind, of interest in its own right, might also reasonably be expected to shed some light on a larger issue, the interplay of law and politics, authority and power, in fourteenth- and fifteenth-century France.

Any discussion of the law of treason must commence with the contemporary perception of the crime. From the writings of the jurists and the treatise-writers, and from the *coutumiers*, it is possible to trace the principal features of the later medieval French concept of treason. Important in this regard were the evolving notions of sovereignty, obedience and the just war; and one cannot emphasize too strongly the influence of Roman law. Indeed, the reception of Roman law in general meant that the Roman law of treason, essentially the *leges Quisquis* and *Julia maiestatis*, became the basic written authority for the French law of treason. Thus when Louis de Luxembourg, count of Saint-Pol and constable of France, was provisionally condemned to death for manifest treason by the Parlement of Paris on 16 December 1475, *trahison*, the French word etymologically closest to the English 'treason', did not appear in the *dictum*; Saint-Pol, it was declared, was 'crimincux de crime de lese majeste'.⁴

The relationship of law and politics is evinced in one respect by the administration of justice: political authority derives from the maintenance of both public order and private rights; and the exercise of jurisdiction is an exercise in power. In a society in which a single authority exists, the competence of a tribunal is a strictly legal matter; but in a society of conflicting authorities jurisdictional entitlement becomes more of a political issue than a legal one. In later medieval France, because the crown had to contend with the pretensions of seigneurs, towns and above all the church, and because treason was a crime that struck at the heart of royal authority, the

³ Bellamy, *The Tudor Law of Treason: an Introduction* (London, Toronto and Buffalo, 1979); J. R. Lander, 'Attainder and Forfeiture 1453-1509', *Historical Journal*, IV (1961), 120-51.

⁴ B.N., ms. fr. 3869, fols. 37r-38r.

Introduction

kings and their officers were doubly determined to have sole cognizance of such cases. Political realities, however, often made it difficult for the crown to press to the limit, in opposition to the church, its claims to jurisdiction.

Because of the often vague nature of treason, the decision to prosecute a particular person at a particular time could be a political one. The prosecution itself, in which there could be a great deal of flexibility in matters of jurisdiction, procedure and punishment, could also be determined by political considerations. The most political aspects of all were forfeiture on the one hand, and pardon with full or partial restitution on the other, for the threat of the former and the prospect of the latter could be used as a means of political control. The spoils of forfeitures, furthermore, could be used quite extensively for the purposes of political patronage.

In the course of this study we shall have occasion to examine in detail the several matters that have been alluded to above: the concept of treason; the scope of treasonable crimes; jurisdiction; procedure; punishment; forfeiture; and pardon. We shall also be examining the incidence of prosecution from Philippe VI to Charles VIII for what this might be able to tell us about the policies and characters of the individual kings. As a whole this study of the law of treason and treason trials in later medieval France should contribute to our understanding of the French monarchy's efforts to protect, extend and enforce its authority.